

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

ARCO WENTWORTH MANAGEMENT CORP. and  
2678 OCEAN AVENUE CORP.

Employer-Petitioners

and

Case No. 29-RM-913

LOCAL NO. 2, BUILDING SERVICE EMPLOYEE AND  
FACTORY WORKERS, TRANSPORTATION  
COMMUNICATION UNION, AFL-CIO<sup>1</sup>

Union

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before Paul Richman, a Hearing Officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.

2(a). The parties stipulated that Arco Wentworth Management Corp., herein called Arco, a New York corporation, with its principal office and place of business located at 3646 Nostrand Avenue, Brooklyn, New York, is engaged in providing management services to residential and commercial properties, including, inter alia, to

2678 Ocean Avenue Corp. During the past year, a representative period, Arco received gross revenues in excess of \$500,000, and during the same period it purchased supplies and materials valued in excess of \$50,000 which were shipped directly across state lines.

2(b). The parties stipulated that 2678 Ocean Avenue Corp., herein called 2678, a New York corporation, located at 2678 Ocean Avenue, Brooklyn, New York, is a residential cooperative. During the past year, a representative period, it received revenues in excess of \$500,000 and during the same period it purchased fuel oil and other supplies and materials valued in excess of \$50,000 which were shipped to its Brooklyn, New York, location from points located directly outside the State of New York.

2(c). The parties further stipulated that, by virtue of Arco's providing management services to 2678, including, inter alia, exercising common supervision and labor relations policies over the employees employed at the premises of 2678, Arco and 2678 are joint employers within the meaning of the Act.

2(d). Based on the stipulations of the parties, I find that Arco and 2678 are engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated that Local No. 2, Building Service Employee and Factory Workers, Transportation Communication Union, AFL-CIO, herein called the Intervenor, is an organization in which employees participate, and which exists, in whole or in part, for the purpose of dealing with employers concerning wages, hours and other terms and conditions of employment. The Intervenor is a labor organization with the meaning of Section 2(5) of the National Labor Relations Act.

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<sup>1</sup> The names of the parties appear as amended at the hearing.

The labor organization involved herein claims to represent certain employees of the Employer.

4. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. The Intervenor seeks to represent the following unit of employees:

All full-time and regular part-time building service employees employed at 2678 Ocean Avenue, Brooklyn, New York, exclusive of all other employees, guards and supervisors as defined in the Act.

The parties stipulated that the petitioned-for unit is appropriate within the meaning of Section 9(b) of the Act. However, the parties further stipulated that the petitioned-for unit is a stable, one-person unit. The parties' verbal stipulation specifies that since 1996, the petitioned-for bargaining unit has consisted of just one employee. Moreover, the Employer does not anticipate that any additional employees will be hired into the bargaining unit.

The law is well-settled that the Board may not certify a one-person unit. In the earliest days of the statute, the Board reasoned that the Act "creates the duty of employers to bargain collectively. But the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain. The Act therefore does not empower the Board to certify where only one employee is involved." *Luckenbach Steamship Company, Inc.*, 2 NLRB 192, 193 (1936); *see Chrysler Corporation*, 192 NLRB 1208, 1210 (1971); *see also Oscar David McDaniel d/b/a McDaniel Electric*, 313 NLRB 126, 127 (1993); *Foreign Car Center, Inc.*, 129 NLRB 319, 320 (1960). Accordingly, the dismissal of the instant petition is warranted.

## **ORDER**

It is hereby ordered that the petition be, and it hereby is, dismissed.

## **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C.

20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **July 10, 2003**. The request may **not** be filed by facsimile.

Dated: June 26, 2003.

/S/ ALVIN BLYER

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